

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

MARY VAN PELT

PLAINTIFF

V.

CIVIL ACTION NO. 1:08cv404-LTS-RHW

MERITPLAN INSURANCE COMPANY

DEFENDANT

**ORDER**

This Court entered an [17] Order for Mediation on January 12, 2009. Shortly thereafter, Defendant Meritplan Insurance Company (Meritplan) filed a [18] Motion to Compel Arbitration. This was followed by a [23] Motion for Protective Order or to Stay Proceedings. This latter motion did not refer directly to the [17] Order for Mediation, so Meritplan filed a separate [25] Motion to Stay Order for Mediation. Plaintiff has filed responses (docket entries [20] and [27]), and opposes all three requests (docket entry [27] is a combined response to motions [23] and [25]). This order is limited to the motions to stay the mediation and to stay the proceedings.

A review of Meritplan's [5] Answer to the [1] Complaint does not contain a specific reference to an arbitration requirement, and the Court notes that the insurance policy submitted by Meritplan in support of its [18] Motion to Compel Arbitration has an acknowledgment of the arbitration agreement that is not signed by Plaintiff. Plaintiff has also presented a letter from Meritplan's counsel indicating every intention of engaging in litigation. Interestingly, the amendatory endorsement relating to arbitration states that it will be governed by the prevailing rules of the American Arbitration Association, which is also administering the Court's mediation program.

However, the Court is not in a position at this time to rule on the underlying motion to compel arbitration. If the motion is successful, then there is no need to proceed further in this Court; if it is not, the mediation can be rescheduled. Therefore, until the Court's decision on the arbitration issue, it is appropriate that the [17] mediation order should be rescinded. Although not presently indicating a position on arbitration, the Court hopes that the parties will continue to engage in efforts to amicably resolve their dispute in a just, speedy, and inexpensive manner.

Accordingly, **IT IS ORDERED:**

Meritplan's [25] Motion to Stay Order for Mediation is **GRANTED**, and the [17] Order for Mediation is hereby **RESCINDED**;

Meritplan's [23] Motion to Stay is **GRANTED**, and proceedings in this cause of action are hereby held in abeyance pending a ruling on the [18] Motion to Compel Arbitration.

**SO ORDERED** this the 4<sup>th</sup> day of February, 2009.

s/ L. T. Senter, Jr.  
L. T. SENTER, JR.  
SENIOR JUDGE